



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 27, 1998

Mr. Robert Hager  
Nichols, Jackson, Dillard,  
Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

OR98-2500

Dear Mr. Hager:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119059.

The City of Coppell ( the "city") received a request for 1) "a copy of the Police Department Case Report filed 08-02-95 by S. Hopkins #295 Re: Lawrence J. Friedman . . . .," 2) [a] copy of Tommy L. Buchanan's statement filed May 12, 1995, Re: Shooting and wounding of John Robinson . . . .," 3) A copy of Lawrence J. Friedman's letter to Sergeant Mike Scott, CPD dated June 20, 1995 Re: John Robinson." You seek to withhold the requested information "based on the law enforcement records exception and/or informant's privilege as set forth in § 552.108 of the Texas Government Code."

We note that in Open Records Letter Nos. 95-1353 (1995) and 96-0027 (1996), this office ordered the city to release of information responsive to a request for all information in the file pertaining to the shooting of John Robinson. The basis of those decisions -- the latter of which was a reconsideration, at the city's request, of the former -- was the city's untimely request for the attorney general's decision on whether the requested information may be withheld. *See* Gov't Code §§ 552.301, .302. Items 2 and 3 of the request here, we think, clearly seek information which was subject to and ordered released in those two decisions. Having failed to properly establish exceptions to the release of this material in connection with the previous request, and been ordered by this office to release the information, the city has waived the exception it claims for this information *vis a vis* the instant request. Information responsive to items 2 and 3 of the request must therefore be released, except for information contained therein which is made confidential by law. We have tabbed and marked motor vehicle record information in this material which must be withheld under section 552.130 of the Government Code.

We are unsure whether or to what extent information responsive to item 1 of the request was included in the material we ordered released in Open Records Letter Nos. 95-1353 (1995) and 96-0027 (1996), as discussed above. To the extent that the item 1 information was encompassed in those prior rulings, you must now release it except, again, for confidential information. We have marked motor vehicle record information which must be withheld under section 552.130 if this is the case.

To the extent that the information requested in item 1 was not subject to the prior decisions' orders to release, we address your claim for withholding that information under section 552.108.

Section 552.108(a)(2) excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

....

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

You indicate that the Dallas County District Attorney's Office declined to present to the Grand Jury the case to which the information responsive to item 1 of the request here pertains. You submit a letter from said district attorney's office to that effect. Based on this showing, we conclude that you may generally withhold the information responsive to item 1 of the request to the extent that the material is not subject to the orders to release in the decisions discussed above.

Section 552.108 does not, however, except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). The city must, in any case, release these types of information in accordance with *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).<sup>1</sup>

To summarize, you must release information responsive to items 2 and 3 of the request, except for the confidential information we have marked. To the extent that information responsive to item 1 of the request was subject to Open Records Letter Nos.

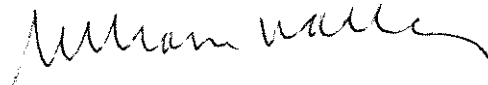
---

<sup>1</sup>You also appear to generally claim the informer's privilege for the information here. The informer's privilege would not, however, protect the "basic information" in the item 1 materials.

95-1353 (1995) and 96-0027 (1996), it must be released, except for the confidential information we have marked. To the extent that the item 1 information was not subject to those decisions, you may withhold it except for basic information contained therein, which must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in dark ink, appearing to read "William Walker", with a long, sweeping horizontal stroke at the end.

William Walker  
Assistant Attorney General  
Open Records Division

WMW/ch

Ref: ID# 119059

Enclosures: Marked documents

cc: Mr. R. G. Harrell  
548 W. Oak Grove  
Coppell, Texas 75019  
(w/o enclosures)